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State v. Woodley Respondent's Brief Dckt. 43941

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43941
Plaintiff-Respondent,)	
)	Bonneville County Case No.
v.)	CR-2015-8376
)	
ALEXANDER WOODLEY,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Woodley failed to establish that the district court abused its discretion by imposing an underlying unified sentence of eight years, with three years fixed, upon his guilty plea to felony DUI?

Woodley Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Woodley pled guilty to felony DUI (prior felony DUI within 15 years) and the district court imposed a unified sentence of eight years, with three years fixed, suspended the sentence, and placed Woodley on supervised probation for five years.

(R., pp.160-66.) Woodley filed a notice of appeal timely from the judgment of conviction. (R., pp.180-83.)

Woodley asserts his underlying sentence is excessive in light of his mental health issues, substance abuse, and because, he claims, his driving at the time of the offense “did not pose a risk to anyone, and there was no evidence that his drug use interfered in any way with his driving.” (Appellant’s brief, pp.4-5.) The record supports the sentence imposed.

The length of a sentence is reviewed under an abuse of discretion standard considering the defendant’s entire sentence. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007) (citing State v. Strand, 137 Idaho 457, 460, 50 P.3d 472, 475 (2002); State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)). It is presumed that the fixed portion of the sentence will be the defendant's probable term of confinement. Id. (citing State v. Trevino, 132 Idaho 888, 980 P.2d 552 (1999)). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). To carry this burden the appellant must show that the sentence is excessive under any reasonable view of the facts. Baker, 136 Idaho at 577, 38 P.3d at 615. A sentence is reasonable, however, if it appears necessary to achieve the primary objective of protecting society or any of the related sentencing goals of deterrence, rehabilitation or retribution. Id.

The maximum prison sentence for felony DUI (prior felony DUI within 15 years) is 10 years. I.C. §§ 18-8005(6), -8005(9). The district court imposed an underlying unified sentence of eight years, with three years fixed, which falls well within the statutory

guidelines. (R., pp.160-66.) Furthermore, Woodley's underlying sentence is appropriate in light of his ongoing disregard for the law and willingness to endanger others, his poor performance on community supervision, his high risk to reoffend, and his failure to rehabilitate or be deterred despite numerous prior treatment opportunities and legal sanctions.

Woodley has a lengthy criminal history that dates back to 1990 and spans at least three states. (PSI, pp.3-13.) As a juvenile, he was adjudicated for petit theft, burglary, and five counts of forgery. (PSI, pp.3-5.) At the age of 25, Woodley committed the crimes of DUI, driving without a valid driver's license, and unlawful vehicle registration, for which he received a withheld judgment and was placed in a diversion program. (PSI, pp.8-9.) Woodley's record of criminal convictions includes convictions for disorderly conduct, misdemeanor possession of a controlled substance, obstructing the legal process, obstructing the legal process in a felony case, providing false information to an officer, felony possession of a controlled substance, three convictions for possession of alcohol by a minor, two convictions for resisting officers, two convictions for failure to purchase a driver's license, two convictions for DWS, three convictions for DWP, and six prior convictions for DUI. (PSI, pp.1, 4-13.) He also has several charges in the State of Kansas for which the disposition is not reported, including a seventh DUI, theft by deception, forgery, and two counts of false writing. (PSI, pp.9-11.)

In 2013, after spending several years in prison for a prior felony DUI, Woodley was granted parole and transferred his supervision to California. (PSI, pp.11, 13.) However, he continued to use illegal drugs while on parole and returned to Idaho after a

parole violation was filed. (PSI, pp.13-14.) He subsequently committed the above-listed felony possession of a controlled substance, racked up three separate charges for failure to purchase/invalid driver's license, and committed the instant felony DUI offense, during which he was again driving without a valid driver's license. (PSI, pp.12-13; R., pp.9-12.) The presentence investigator reported:

The defendant has an extensive criminal history that began when he was 14 years old and spans three states. He has spent time in the juvenile facility in St. Anthony and served eight years in prison in Idaho. He also spent a significant time in jail in Texas and Kansas, and was in a diversion program. Mr. Woodley has had several opportunities to succeed on probation and parole, but continually violated his supervision by committing new crimes. He has been arrested at least 45 times and has more than 15 convictions. Most recently, he was arrested for driving without privileges in May 2015, which illustrates his apparent refusal to abide by the law as this charge was received after his arrest for the instant offense; that case is pending. Mr. Woodley does not seem able to restrain himself from illegal activity, which is evidenced by the DOR he received for fighting while incarcerated.

(PSI, p.13.) Woodley's former parole officer eventually "refused to supervise him," stating that Woodley "can't be honest and he also won't stop using." (PSI, p.14.) The parole officer advised, "There is very little chance he will be successful on probation." (PSI, p.14.) Likewise, the presentence investigator stated, "I do not feel Mr. Woodley is appropriate for [community] supervision," noting that Woodley has a history of failing to comply with treatment/programming, he presents a high risk to reoffend, and he "does not appear ready or willing to live within the boundaries of regular society or to obey its laws." (PSI, pp.19-20, 26.) Even the substance abuse evaluator recommended residential treatment, reporting that Woodley "does not appear to be ready to commit to full recovery" and that his "ability to meet recovery goals is unlikely in his current social environment." (PSI, p.22.)

At sentencing, the state argued:

You have an individual that's done prison. That hasn't stopped him from reoffending. He's done a Rider. That hasn't stopped him from reoffending. He's had opportunities at specialty courts. That hasn't stopped him from reoffending.

This Court's number one responsibility to the people in this county is to protect the people of this county. That's number one. That's what the Idaho Supreme Court says. When you look at this individual, I don't think this is an individual that the Court can send back out into our community based on everything that we see in this PSI. The risk is incredibly high. The history tells us that this is an individual that the Court needs to see that society's protected. I don't think this is an individual that can go on regular probation. And I don't base that just off this conduct. I base that off the years that he's been in the criminal justice system and the times that he has put others at risk and committed offenses.

(12/21/15 Tr., p.44, Ls.4-19.)

The district court considered all of the relevant information and imposed a reasonable sentence. Woodley's underlying sentence is appropriate in light of his ongoing criminal offending and refusal to abide by the terms of community supervision, the danger he poses to society, and his failure to rehabilitate or be deterred despite numerous prior treatment opportunities and legal sanctions. Given any reasonable view of the facts, Woodley has failed to establish an abuse of discretion.

Conclusion

The state respectfully requests this Court to affirm Woodley's conviction and sentence.

DATED this 17th day of August, 2016.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 17th day of August, 2016, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

ANDREA W. REYNOLDS
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General